

REMARKS/ARGUMENTS

The Office action dated February 10, 2005, and the references cited therein have been carefully reviewed in light of the examiner's helpful comments and suggestions.

As a result of the Office action, claims 1-6 are objected to on formal grounds, which objections are believed to have been overcome by the above amendments. In claim 1, the limitation "typically threaded orifice (20)" has been replaced with "a neck." Applicants respectfully submit that the multilayer material PE and EVOH have been defined in the specification on page 1, lines 1-15. Claim 2 has been amended to delete the recitations of "said internal and external layers are made of the same", "preferably", and "chose to be." Claims 3 and 4 have been amended to delete the recitations of "typically." The redundant recitations of "the said" have been canceled throughout the pending claims. No new matter has been added.

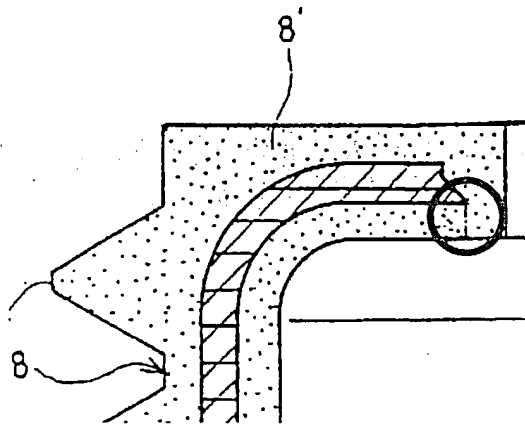
Applicants have canceled claims 7-16 directed to the non-elected invention without prejudice or disclaimer, and reserve the right to file a divisional application based on those claims.

Moreover, claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. 5, 292,034 to Keller. This reference has been carefully reviewed but is not believed to show or suggest Applicants' invention as now claimed in any manner. Reconsideration and allowance of the pending claims is therefore respectfully requested in view of the following remarks.

According to MPEP 2143.03, to establish *prima facie* obviousness of a claimed

invention, all the claim limitations must be taught or suggested by the prior art. Claim 1 has been amended and it now requires "said head comprises a thermoplastic multilayer material comprising at least one inner layer in barrier material B that is completely immersed and embedded without discontinuity or break by a structure material A, that forms an internal layer and an external layer." Support for this amendment is found, for example, on page 3, lines 22-26 of the specification. Applicants believe that Keller neither discloses nor suggests this claimed feature for the following reasons.

Keller teaches a plastic tube head having inside, outside, and middle layers that are obtained by compressing subsequent plastic layers in three successive steps. The middle (barrier) layer is retracted slightly relative to the inside layer and somewhat more relative to the outside layer in the cover (see col. 3, lines 19-22), and on the other hand, in such a manner that the middle layer may be encapsulated (line 46). But the process of Keller does not guarantee that the inside and the outside layers are properly joined, because the inside layer - which may be of a material different from the outside layer material - is colder and the outside layer is merely pressed on the already pressed layers. Such an overmolding (by compression) of the outside layer on the already pressed layers cannot give a good seam where the materials of the layers are intimately mixed. We may see on the Figure of Keller a straight dashed line that represents the resulting seam, as indicated by the enlarged circled portion of that Figure reproduced below for the examiner's convenience.



With such a seam, the barrier material may be in contact with the wet atmosphere of the inside of the tube. Keller does not teach or illustrate the case where the other end is also encapsulated, but Applicants believe the same difficulties may arise because the forming process is the same. In the case where the barrier material is EVOH, this possible contact with a wet atmosphere or moisture is a real shortcoming because EVOH loses its barrier properties if it is not protected from moisture.

If all the layers are molded simultaneously, for example by co-injection or by compression molding of a co-injected blank, much better seams may be obtained, where the middle layer (inner layer as claimed) is "completely immersed and embedded without discontinuity or break by a structure material A," are now required by claim 1. Therefore, in view of the foregoing, claim 1 is believe to be patentable over the Keller reference.

Claims 2-6 are dependent from claim 1 and are therefore allowable for the same reasons as claim 1.

The prior art references made of record by the examiner have each been considered but are not believed to obviate against the allowability of the claims as amended. It is noted that none of these references have been specifically applied by

the examiner against any of the original claims.

Each issue raised in the Office action dated February 10, 2005, has been addressed and it is believed that claims 1-6 are in condition for allowance. Wherefore, reconsideration and allowance of these claims is earnestly solicited. Applicants respectfully request that a timely Notice of Allowance be issued in this case.

Respectfully submitted,
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